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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,191	03/24/2004	Michinari Yamanaka	60188-809	1823
7590	05/03/2006			
EXAMINER				KACKAR, RAM N
ART UNIT				PAPER NUMBER
				1763

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/807,191	YAMANAKA, MICHINARI
	Examiner Ram N. Kackar	Art Unit 1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/24/2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of claims 1-15 in the reply filed on 2/23/2006 is acknowledged.

Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claims 1 and 6 are indefinite for the following reasons:

Firstly the size of a component of the apparatus is recited to be determined by a process requirement. The process requirement being an opening area ratio, which is a variable and could be from almost 0 to 100%.

Secondly the determination implies a relationship between the size and opening ratio.

There is no mention of that particular relationship.

Thirdly, the relationship of size to surface area is vague. It is noted that the specification discloses that the primary quantity of interest is the surface area of the shield and to know that internal radius, outer radius and thickness are needed. According to paragraph 31 of the specification size relates only to outer radius.

Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim. Ex parte Thibault, 164 USPQ 666, 667 (Bd. App. 1969).

Further as far as claim 1 is concerned “opening area ratio is also not defined “ since it is defined only in dependent claim 5.

Claims 2 and 11 are rejected not only because it depends upon claim 1 and 6 but additionally since they claim etching gas to pass through said opening area. It is noted that according to antecedent basis opening area refers to the area on the substrate to be etched.

Still further, in claim 6 opening area ratio is compared to opening size of the shield device which is related to internal radius in contrast to outer radius as in claim 1.

A claim may be rendered indefinite by reference to an object that is variable See MPEP 2173.05(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. **Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicants admitted prior art (AAPR).**

Applicants admitted prior art as in Fig 12 discloses a chamber having gas inlet and outlet, a place for setting an object to be etched, a circular shield and upper and lower electrode.

Regarding the size of the shield device, since there is such a wide range of opening ratio, it is inherent that the size of given shield ring (focus ring) fits the relation ship between the size and opening ratio for a particular embodiment.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ke et al (US 6284093).**

Ke et al disclose a chamber having gas inlet and outlet, a place for setting an object to be etched, a circular shield (focus ring 50 of silicon) and upper and lower electrodes (Fig 2).

Regarding claim 6 Ke et al disclose multipart shield ring (Fig 2 to Fig 8B) where at least one part is silicon. Ke et al teach that silicon scavenges fluorine ions and controls etch selectivity in an SiO₂ etch (Col 8 lines 3-27) and further teach that large surface area of silicon shield ring improves the selectivity of etch process (Col 8 lines 51-59).

As known by one of ordinary skill in the art, etching of small opening requires large selectivity, the surface area of the shield provides result effective parameter. Therefore it would have been obvious to use shield surface area as a control parameter for small opening etch.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ram N. Kackar whose telephone number is 571 272 1436. The examiner can normally be reached on M-F 8:00 A.M to 5:P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571 272 1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ram Kackar
Ram Kackar
Primary Examiner AU 1763